

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 03-10157-01JTM

ANDRE DAVIS,

Defendant.

ORDER

Presently before the court are defendant Andre Davis's pro se motions for preservation of radar evidence (Dkt. No. 184), and for preservation of the black duffel bag and locks (Dkt. No. 185).

On January 12, 2009, Mr. Davis filed a notice of appeal (Dkt. No. 173), which divests this court of jurisdiction. *See Burkner v. Utah Transit Auth.*, 462 F.3d 1253 (“[f]iling a timely notice of appeal pursuant to Fed. R. App. P. 3 transfers the matter from district court to the court of appeals. The district court is thus divested of jurisdiction. Any subsequent action by it is null and void.”)(internal citations omitted). Because this court does not have jurisdiction to consider Mr. Davis's requests, the motions are denied. *See also Crawford v. Livesay*, No. 88-6261, 1989 WL 125659, at *2 (6th Cir. Oct. 24, 1989) (holding that a district court does not have jurisdiction to consider a motion to preserve evidence, because it retains jurisdiction only "to aid in the appeal.”).

IT IS ACCORDINGLY ORDERED this 6th day of April, 2009, that defendant Andre Davis's motions for preservation of evidence (Dkt. Nos. 184 and 185) are denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE